



September 28, 2022

«Addressee»

«Organization»

«Address»

«City» «ST» «Zip»

**Re: Notice of Regulation of Water Rights Within Water District 29, Portneuf River and Tributaries**

Dear Water User,

The purpose of this letter is to notify holders of surface water rights in Water District 29 (WD29), particularly irrigation water rights with an authorized season of use (SOU) before April 15 and after September 15, that water rights must be administered in priority with rights being delivered from the Snake River within Water District 01 (WD01). Surface water rights in Basin 29 are tributary to the Snake River. Junior priority water right diversions in WD29 can impact senior priority water rights on the Snake River below the confluence of the Portneuf and Snake Rivers.

In 2021, the Surface Water Coalition (SWC), a group of seven irrigation entities holding relatively senior water rights from the Snake River, requested the Department of Water Resources (Department) initiate action to ensure Snake River tributary water rights are administered in priority with water rights in WD01. As a result of the SWC request, and in accordance with Idaho law, the Director of the Department has instructed all Portneuf River Basin watermasters to begin administration of water rights in priority with water rights from the Snake River in WD01. Water users in WD29 were not curtailed during the 2021 and 2022 irrigation seasons because water right priority date cuts in WD29 are almost always senior to priority cuts on the Snake River.

The authorized SOU for many irrigation water rights in WD29 is from April 15 to September 15. This limited or shorter SOU was a result of the *Union Grain & Elevator v. McCammon Ditch Co. Amended Decree (Union decree)*, August 6, 1932. This SOU carried forward to these rights in the Snake River Basin Adjudication (SRBA). Because water users historically irrigated before and after those dates since 1932, many irrigation water rights in WD29 were decreed in the SRBA with an extended but conditional irrigation SOU. **The**

**condition on these rights specifies that irrigation during the extended SOU is subordinate to all water rights having no subordinated early or late SOU.** Most water rights on the Snake River downstream of WD29 do not have SOU subordination conditions. Therefore, irrigation use before April 15 and after September 15 under water rights with SOU subordination conditions is junior to downstream irrigation rights on the Snake River.

The holders of some water rights in WD29 with extended SOU subordination conditions received separate SRBA decreed water rights with an April 1 to October 31 SOU and an August 7, 1932, priority date (one day later than the Union decree). Although these later priority water rights have been used in recent years, the rights must be administered in accordance with priority dates on the Snake River.

The Department was not fully aware of the impact of the SOU subordination conditions until recently. Department efforts to properly administer water rights tributary to the Snake River consistent with priority cuts in WD01 have been focused on the typical irrigation season (eg. April 1 to October 31) in other water districts. The Department will not instruct the WD29 watermaster to curtail affected water rights in 2022. However, **effective April 1, 2023, all water rights in WD29 must be administered in priority with water rights being delivered from the Snake River within WD01.** The WD29 watermaster must distribute water in accordance with priority dates and any associated water right conditions or limitations.

Please refer to the WD29 Questions and Answers sheet attached to this letter for additional information and guidance.

If you have questions about this letter, please contact the IDWR Water Distribution Section (Boise) at 208-287-4800 or the Eastern Regional Office (Idaho Falls) at 208-525-7161.

Respectfully,



Tim Luke  
Water Compliance Bureau Chief

Enclosure: WD29 Questions and Answers sheet

cc: IDWR Eastern Region  
Steve Hebdon, Water District 29 Watermaster

## Water District 29

### Questions and Answers about Administration of Water Rights in Priority with the Snake River and Irrigation Rights with Subordinated Season of Use

#### **WHO IS AFFECTED?**

- Holders of surface water rights from the Portneuf River or tributaries to the Portneuf River with a SOU from 4/15 thru 9/15 and a SOU subordination condition.
- Holders of water rights from the Portneuf River or tributaries to the Portneuf River with an authorized SOU from 4/1 thru 10/31 that have a priority of August 7, 1932, or later (post 8/7/1932).

Note: water rights listing a source of “Springs” tributary to “Sinks” are not affected.

#### **WHEN?**

Holders of affected water rights must anticipate curtailments starting in 2023. **The Director of the Department will instruct the WD29 watermaster to deliver water rights consistent with the effective WD01 delivery priority date and the conditions listed on each water right.**

WD01 priority delivery dates vary based on the existing water supply and related demand (see below).

#### **HOW DO I KNOW THE PRIORITY DATE ON THE SNAKE RIVER?**

The priority date of water rights being delivered on the Upper Snake River is posted on the WD01 webpage. On the WD01 website [www.waterdistrict1.com](http://www.waterdistrict1.com) the ‘Current Data’ tab, ‘Projected Water Rights’ shows the most senior right currently being delivered. Water users should reference the date associated with the “Reaches below Blackfoot” section during the irrigation season. To view historical data, users should reference the ‘Historical Data’ tab and follow instructions under the ‘Historical Data Retrieval’ tab. A diversion in the Portneuf River Basin is on the same schedule and priority date shown for diversions in Site ID 13075500 ‘PORTNEUF RIVER AT POCA TELLO’ in the ‘Upper Snake River’ system. Once on the ‘PORTNEUF RIVER AT POCA TELLO’ site, users should click on the “Accounting” tab to view the priority date associated with each day of the year.

#### **WHAT ARE MY OPTIONS IF I AM CURTAILED?**

Curtailed water users may have the option to offset an out-of-priority use only through mitigation. Mitigation water may be obtained through water supply banks, local rental pools, or private lease/rental agreements. Mitigation water may be obtained through the Idaho Water Supply Bank, Water District 01 Rental Pool, the Shoshone-Bannock Tribal Water Bank, or individual Snake River storage space holders.